

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

HENRY J. AUGUSTUS, IV,	§	
	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO: 07-188-JJB-DLD
	§	
MERCK & CO., INC.,	§	
	§	
Defendant	§	

**UNOPPOSED MOTION TO STAY ALL PROCEEDINGS  
PENDING TRANSFER TO MULTIDISTRICT LITIGATION**

Defendant Merck & Co., Inc. ("Merck") moves this Court to stay all proceedings in this action pending its transfer to *In re Fosamax Prods. Liab. Litig.*, MDL No. 1789, the multidistrict litigation ("MDL") proceeding that has been established in the Southern District of New York to coordinate federal product liability actions involving FOSAMAX® ("Fosamax").

On August 16, 2006, the Judicial Panel on Multidistrict Litigation (the "MDL Panel" or "Panel") issued a transfer order establishing MDL Proceeding No. 1789, titled *In re Fosamax Products Liability Litigation. In re Fosamax Prods. Liab. Litig.*, 444 F. Supp. 2d 1347, (J.P.M.L. 2006).

On or about March 20, 2007, Plaintiff Henry J. Augustus, IV ("Plaintiff") commenced this action entitled *Henry J. Augustus, IV v. Merck & Co., Inc.* ("the/this action"), Civil Action No: 07-188-JJB-DLD, against Merck in the United States District Court for the Middle District of Louisiana. Merck was served with the action on March 23, 2007, and timely filed its answer and affirmative defenses on April 13, 2007.

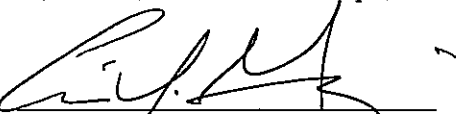
Pursuant to Rule 7.5 of the Rules of Procedure for the Judicial Panel on Multidistrict Litigation, Merck provided notice to the MDL Panel of the pendency of this "tag-

along” action by letter. On April 10, 2007, the MDL Panel issued an order conditionally transferring this action to MDL 1789. *See* Exhibit A.

WHEREFORE, Merck respectfully requests that the Court grant this motion and stay all proceedings in this case pending transfer of this action to the MDL proceeding in the Southern District of New York.

Respectfully submitted,

Taylor, Porter, Brooks & Phillips, L.L.P.

By: 

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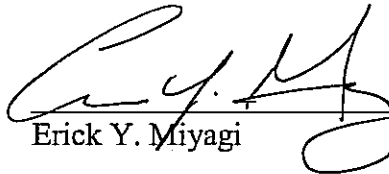
ATTORNEYS FOR MERCK & CO., INC.

OF COUNSEL:

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**CERTIFICATE OF CONFERENCE**

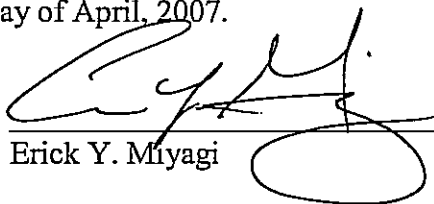
Merck's counsel conferred with counsel for Plaintiff regarding this motion, and Plaintiff is unopposed to the motion.

  
Erick Y. Miyagi

**CERTIFICATE OF SERVICE**

I certify that a copy of the above and foregoing was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to Philip Bohrer and Scott E. Brady by operation of the court's electronic filing system

Baton Rouge, Louisiana, this 25<sup>th</sup> day of April, 2007.

  
Erick Y. Miyagi

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA

HENRY J. AUGUSTUS, IV,

Plaintiff,

v.

MERCK & CO., INC.,

Defendant

§  
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CIVIL ACTION NO: 07-188-JJB-DLD

**ORDER**

Came on for consideration Defendant Merck & Co., Inc.'s Motion to Stay All Proceedings Pending transfer of this case to *In re Fosamax Prods. Liab. Litig.*, MDL No. 1789, the multidistrict litigation proceeding that has been established in the Southern District of New York to coordinate federal product liability actions involving FOSAMAX®.

After due consideration, IT IS ORDERED that Defendant Merck & Co. Inc.'s motion is GRANTED. All pretrial proceedings and deadlines are hereby STAYED.

Signed this \_\_\_\_ day of \_\_\_\_\_ at Baton Rouge, Louisiana.

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UNITED STATES DISTRICT JUDGE